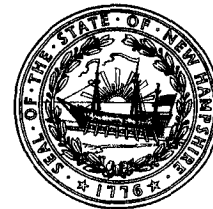




The State of New Hampshire  
*Department of Environmental Services*



Michael P. Nolin  
Commissioner

March 8, 2006

Bob Bahre  
d/b/a New Hampshire International Speedway  
PO Box 7888  
Loudon, NH 03307

Re: Docket No. AF 06-001 Administrative Fine by Consent Agreement

Dear Mr. Bahre:

Enclosed for your records is a copy of the fully executed and accepted Administrative Fine by Consent Agreement in the above-captioned matter.

On behalf of the Department of Environmental Services, thank you for your cooperation in resolving this matter.

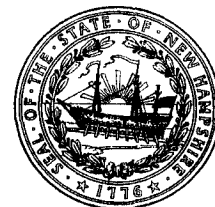
Sincerely,

  
**COPY**  
Michael P. Scialfani,  
Legal Assistant

cc: Michael J. Walls, DES Assistant Commissioner  
Anthony P. Giunta P.G, Director, Waste Management Division  
Gretchen R. Hamel, Administrator, DES Legal Unit  
Kerry D. Barnsley, Compliance Attorney, DES Legal Unit  
DES Public Information Officer  
Lynn Woodard, DES WMD  
Thomas Beaulieu, DES WMD  
Susan Hanamoto, DES WMD



The State of New Hampshire  
**Department of Environmental Services**



Michael P. Nolin  
Commissioner

Bob Bahre  
d/b/a New Hampshire International Speedway  
P.O. Box 7888  
Loudon, NH 03307

RE: New Hampshire International Speedway  
1122 Route 106 North  
Loudon, New Hampshire  
EPA ID No. NHD986473320

**ADMINISTRATIVE FINE  
BY CONSENT**

**No. AF 06-001**

**I. INTRODUCTION**

This Administrative Fine by Consent is entered into by and between the Department of Environmental Services, Waste Management Division, and Bob Bahre d/b/a New Hampshire International Speedway pursuant to RSA 147-A:17-a. This Administrative Fine by Consent ("Agreement") is effective upon signature by all parties.

**II. PARTIES**

1. The Department of Environmental Services, Waste Management Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its principal office at 29 Hazen Drive, Concord, New Hampshire.
2. Bob Bahre d/b/a New Hampshire International Speedway ("NHIS") is an individual having a mailing address of P.O. Box 7888, Loudon, NH, 03307.

**III. BACKGROUND**

1. Pursuant to RSA 147-A, the Department of Environmental Services regulates the management and disposal of hazardous waste. Pursuant to RSA 147-A:3, the Commissioner of DES has adopted Env-Wm 100-1100 ("Hazardous Waste Rules") to implement this program.
2. Pursuant to RSA 147-A:17-a, the Commissioner of DES is authorized to impose fines of up to \$2,000 per offense for violations of RSA 147-A or rules adopted pursuant thereto. Pursuant to this section, the Commissioner has adopted Env-C 612 to establish the schedule of fines for such violations.
3. Bob Bahre d/b/a NHIS is a hazardous waste generator that notified the United States Environmental Protection Agency ("EPA") of its activities through DES on January 3, 1992.

EPA Identification Number NHD986473320 was assigned to the NHIS site located at 1122 Route 106 North, Loudon, New Hampshire.

4. On July 28, 2005, DES personnel inspected the NHIS site for compliance with RSA 147-A and its implementing regulations, the New Hampshire Hazardous Waste Rules. As a result of the violations of the Hazardous Waste Rules observed during this inspection, DES issued Letter of Deficiency No. WMD 05-022 ("LOD") to Ken Hoyt as Hazardous Waste Coordinator for the Speedway on September 9, 2005. Based on the violations observed during the inspection listed above, DES believes that an administrative fine is appropriate in this case for the Class I violation.

#### **IV. ALLEGATIONS, ADMINISTRATIVE FINES**

1. Bob Bahre failed to perform adequate waste determinations for the one (1) 55-gallon container of an unknown liquid, stored in a broken containment unit behind the maintenance building and on numerous propane cylinders also stored behind the maintenance building, as required by Env-Wm 502.01 ("Violation 1"). Env-C 612.05(a) authorizes a fine of \$1,500 per determination, for a potential fine of \$3,000.
2. Bob Bahre failed to mark one (1) 55-gallon container of hazardous waste gasoline, stored in the Safety Kleen Building-North with the beginning accumulation date, as required by Env-Wm 507.03(a)(1)a. ("Violation 2"). Env-C 612.06(k) authorizes a fine of \$250 for each container that is 55-gallons or greater.
3. Bob Bahre failed to properly mark the one (1) 55-gallon container of hazardous waste gasoline, stored in the Safety Kleen Building-North with the EPA or state waste number, as required by Env-Wm 507.03(a)(1)d. ("Violation 3"). Env-C 612.06(l) authorizes a fine of \$600 for each container that is 55-gallons or greater.
4. Bob Bahre failed to document inspections of the hazardous waste storage area, as required by Env-Wm 509.02(a)(1) ("Violation 4"). Env-C 612.07(a) authorizes a fine of \$1,000 per inspection per area per week.
5. Bob Bahre failed to maintain a personnel training program and provide hazardous waste training for the following employees with hazardous waste management duties, as required by Env-Wm 509.02(a)(2): three (3) years of annual training for Emergency Coordinator Bette French; and two (2) years of annual training for Secondary Emergency Coordinator Richard Lefebvre ("Violation 5"). Env-C 612.07(b) authorizes a fine \$1,000 per individual not trained for annual updates, for a potential fine of \$5,000.
6. Bob Bahre failed to maintain a complete contingency plan on-site, as required by Env-Wm 509.02(a)(5) ("Violation 6"). Env-C 612.07(e) authorizes a fine of \$2,000.

7. Bob Bahre failed to post a complete emergency posting at the nearest telephone to the Safety Kleen Building-North hazardous waste storage area, as required by Env-Wm 509.02(b) ("Violation 7"). Env-C 612.07(h) authorizes a fine of \$1,000 per area.
8. Bob Bahre failed to mark one (1) 55-gallon container of used oil destined for recycling with the words "Used Oil for Recycle", as required by Env-Wm 807.06(b)(4) ("Violation 8"). Env-C 612.10 (a)(1), which references Env-Wm 807.06(b)(2), modified in August 2000 to Env-Wm 807.06(b)(4), authorizes a fine of \$100 for each container that is 55-gallons or greater.
9. Bob Bahre failed to store one (1) automotive lead-acid battery behind the maintenance building, in a manner designed to ensure that battery housings do not break or leak acid onto the soil or into ground waters or surface waters, as required by Env-Wm 809.02 ("Violation 9"). Pursuant to Env-C 610, a fine of \$25/battery has been calculated.
10. Bob Bahre failed to store twelve (12) universal waste lamps, in container(s), as required by Env-Wm 1112.03(a) and failed to close one (1) container of universal waste lamps except to add or remove universal waste, as required by Env-Wm 1102.03(c) ("Violation 10"). Pursuant to Env-C 610, a fine of \$25/lamp not stored in container(s) and a fine of \$15 per container not closed has been calculated, for a potential fine of \$315.
11. Bob Bahre failed to label/mark the twelve (12) universal waste lamps and one (1) container of universal waste lamps with any of the following markings: "Universal Waste – Lamps(s)," "Waste Lamp(s)," or "Used Lamp(s)," as required by Env-Wm 1102.03 and Env-Wm 1112.04 ("Violation 11"). Pursuant to Env-C 610, a fine of \$10/lamp and \$50/container has been calculated, for a potential fine of \$170.

#### **V. PAYMENT, WAIVER OF HEARING**

1. DES agrees to waive fines associated with Violations 2 through 11, because they are not Class I violations.
2. Bob Bahre agrees to pay \$1,500 as itemized below for Violation 1, which is a Class I violation, upon execution of this Agreement by Bob Bahre:
  - a. DES has determined that the hazardous waste determination for the numerous propane cylinders stored behind the maintenance building is a Class 2 violation. DES thus is seeking a penalty of \$1,500 for failing to perform one (1) hazardous waste determination for the one (1) 55-gallon container of an unknown liquid, stored in a broken containment unit behind the maintenance building.
3. Payment under Section V. Paragraph 2 shall be paid by certified check made payable to: "Treasurer, State of New Hampshire" and shall be mailed to:

DES Legal Unit  
Attn: Michael Sclafani, Legal Assistant

PO Box 95  
Concord, NH 03302-0095

4. If any payment is made by check or money order that is returned due to insufficient funds, pursuant to NH RSA 6:11-a, DES may charge a fee in the amount of 5% of the face amount of the check or money order or \$25.00, whichever is greater, plus all protest and bank fees, in addition to the amount of the check or money order, to cover the costs of collection.
5. By executing this Agreement, Bob Bahre waives his right to a hearing on or any appeal of the administrative fines identified in this Agreement, and agrees that this Agreement may be entered into and enforced by a court of competent jurisdiction.
6. The effective date of this Agreement will be the date on which it is signed by Bob Bahre, the Director of the Waste Management Division, and the Commissioner of DES.
7. No failure by DES to enforce any provision of this Agreement after any breach or default will be deemed as a waiver of its rights with regard to that breach or default, nor will such failures be construed as a waiver of the right to enforce each and all provisions of this Agreement on any further breach or default.

WHEREFORE, the parties voluntarily accept the terms of this Agreement.

**COPY**

By: Bob Bahre, Owner

02/17/06  
Date

DEPARTMENT OF ENVIRONMENTAL SERVICES

**COPY**

Anthony P. Giunta, P.G., Director  
Waste Management Division

2/28/06  
Date

**COPY**

Michael P. Nolin, Commissioner

03 07 06  
Date